CONCLUSIONS OF LAW

1. Amalgamated Plastic Toys & Novelty Workers, Local 44, I.B.P.M.O.E., Ind., is a labor organization within the meaning of Section 2(5) of the Act.

2. By refusing and continuing to refuse to bargain collectively with the aforesaid Union as the exclusive representative of its production and maintenance employees at its New York, New York, plant, located at 371 Broadway, New York City (excluding office clerical employees, professional employees, guards, and supervisors as defined by the Act whose services may be paid for or utilized by the Respondent), the Respondent has engaged in and is engaging in unfair labor practices within the meaning of Section 8(a)(5) of the Act.

3. By refusing and continuing to refuse to bargain with the said Union, as aforesaid, the Respondent has interfered with and continues to interfere with the rights guaranteed to its employees under Section 7 of the Act, and thereby has engaged in and is engaging in an unfair labor practice within the meaning of Section 8(a)(1) of the Act.

4. The Respondent, by interrogating his employees concerning their membership in and their activities on behalf of the Union, by warning them to refrain from becoming members of the Union or giving any assistance to the Union, by threatening employees with discharge if they adhere to the Union or remain members of the Union, by promising employees economic benefits and other benefits if they did not join or assist the Union, and by offering, promising, and granting to its employees wage increases, vacation pay, and other benefits if they refused to join the Union, and by granting increases of pay to certain employees in an effort to discourage membership in the Union, has interfered with, restrained, and coerced his employees in the rights guaranteed to them by Section 7 of the Act, and has violated Section 8(a)(1) of the Act by engaging in such prohibited activities.

5. The above-described labor practices are unfair labor practices affecting commerce within the meaning of Section 2(6) and (7) of the Act.

[Recommendations omitted from publication.]

Spector Freight System, Inc. *and* Paul H. Conrad

Local 600, Highway & City Freight Drivers, Dockmen & Helpers, affiliated with International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America *and* Paul H. Conrad. *Cases Nos. 14-CA-1783 and 14-CB-550. March 5, 1959*

DECISION AND ORDER

On December 12, 1958, Trial Examiner Max M. Goldman issued his Intermediate Report in the above-entitled proceedings, finding that the Respondent Company and the Respondent Union had engaged in and were engaging in certain unfair labor practices and recommending that they cease and desist therefrom and take certain affirmative action, as set forth in the copy of the Intermediate Report attached hereto. Thereafter, the Respondent Company and the Respondent Union filed exceptions to the Intermediate Report and supporting briefs.

The Board [1] has reviewed the rulings made by the Trial Examiner at the hearing and finds that no prejudicial error was committed.

[1] Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its powers in connection with these cases to a three-member panel [Members Rodgers, Jenkins, and Fanning].

The rulings are hereby affirmed. The Board has considered the Intermediate Report, the exceptions and briefs, and the entire record in these cases, and hereby adopts the findings,[2] conclusions, and recommendations of the Trial Examiner.

We concur in the Trial Examiner's finding that the Respondent Union and the Respondent Company violated Section 8(b)(2) and (1)(A), and 8(a)(3) and (1), respectively, by the discharge of Paul H. Conrad for failure to pay dues for October 1957, a month during which he was not employed by the Company. The Union concedes that, if it had caused the Company to terminate Conrad for this reason, it would stand in violation of the Act under the Board's decision in *Murphy's Motor Freight, Inc.*[3] However, the Union contends that Conrad was discharged, not because he failed to pay prehire dues for October, but because he declined to pay a reinstatement fee occasioned by his suspension from the Union for being in arrears of dues for the 3-month period from October through December 1957. In reliance upon our decision in *Food Machinery and Chemical Corporation*[4] and related cases,[5] the Union argues that it could lawfully condition Conrad's employment upon payment of the reinstatement fee.

Like the Trial Examiner, we are satisfied on the record before us that the Union's insistence upon Conrad's discharge was predicated upon his nonpayment of the October prehire dues and that the Company was fully apprised that the discharge was demanded for this reason. However, even were we to assume that the discharge resulted from Conrad's refusal to pay the reinstatement fee, we would still find that the termination of his employment was violative of the Act. Unlike the cases relied upon by the Union, Conrad's loss of good standing in the Union was based in part upon his failure to pay dues which accrued during the prehire period of October. The fee which the Union sought to exact from Conrad therefore resulted from the computation of back dues for a period during which Conrad was under no statutory obligation to remit such dues to the Union in order to keep his job. In *Local 140, Bedding, Curtain & Drapery Workers Union (The Englander Company, Inc.)*,[6] the Board stated that there is no significant difference between a union demanding the discharge of an

[2] We adopt the Trial Examiner's finding that the Respondent Union violated Section 8(b)(1)(A) by threatening Paul H. Conrad with loss of employment if he did not pay dues for October, November, and December, 1957, at the rate of $6 rather than $5 per month because he had not timely proffered dues for those months. In so doing, we rely upon our decision in *The Great Atlantic & Pacific Tea Company (Pittsburgh Bakery)*, 110 NLRB 918, rather than the *Bakery and Confectionery Workers'* case cited by the Trial Examiner, and find that the additional sum which the Union sought to exact from Conrad constituted an "assessment."

[3] 113 NLRB 524, enfd. 231 F. 2d 654 (C.A. 3).

[4] 99 NLRB 1430.

[5] *Adel Precision Products, Division of General Metals Corporation,* 120 NLRB 1223; *Hubley Manufacturing Company,* 121 NLRB 170.

[6] 109 NLRB 326.

employee who lost membership in good standing for failing to pay dues which accrued during a period when there was no statutory obligation to maintain such membership as a condition of employment, and demanding the discharge of an employee who lost good standing only because the union took into account dues which accrued during a period when the employee could not lawfully be required to pay them to retain his employment. "In both instances," the Board noted, "the employees are penalized for not paying dues at a time when they were legally privileged to refuse to do so without jeopardizing their jobs." [7]

We believe that the decision in *Local 140* controls our disposition of this issue. Accordingly, we find that, even if Conrad's loss of employment was attributable to his failure to pay the reinstatement fee, his discharge for this reason was, under the circumstances herein, violative of Section 8(b)(2) and (1)(A), and 8(a)(3) and (1).

ORDER

Upon the basis of the entire record in these proceedings, and pursuant to Section 10(c) of the National Labor Relations Act, the National Labor Relations Board hereby orders that:

I. The Respondent Company, Spector Freight System, Inc., St. Louis, Missouri, its officers, agents, successors, and assigns, shall:

A. Cease and desist from:

(1) Encouraging membership in the Respondent Union or in any other labor organization by discharging any of its employees or discriminating in any other manner in regard to their hire or tenure of employment, or any term or condition of their employment, except to the extent authorized by Section 8(a)(3) of the Act.

(2) In any like or related manner interfering with, restraining, or coercing its employees in the exercise of the rights guaranteed in Section 7 of the Act, except to the extent that such rights may be affected by an agreement requiring membership in a labor organization as a condition of employment as authorized by Section 8(a)(3) of the Act.

B. Take the following affirmative action, which the Board finds will effectuate the policies of the Act:

(1) Offer reinstatement to Paul H. Conrad in the manner set forth in the section of the Intermediate Report entitled "The Remedy."

(2) Jointly and severally with the Respondent Union, make Paul H. Conrad whole for any loss of pay he may have suffered by reason of their discrimination against him in the manner set forth in the section of the Intermediate Report entitled "The Remedy."

(3) Preserve and make available to the Board or its agents all records necessary to insure expeditious compliance with this Order.

[7] *Id.* at p. 328.

(4) Post at its facilities in St. Louis, Missouri, copies of the notice attached hereto marked "Appendix A."[8] Copies of said notice, to be furnished by the Regional Director for the Fourteenth Region, shall, after being duly signed by the Respondent Company, be posted by it immediately upon receipt thereof, and be maintained by it for 60 consecutive days thereafter, in conspicuous places, including all places where notices to its employees are customarily posted. Reasonable steps shall be taken by the Respondent Company to insure that said notices are not altered, defaced, or covered by any other material.

(5) Post at the same places and under the same conditions as set forth in (4) above, and as soon as they are forwarded by the Regional Director, copies of the Respondent Union's notice herein, marked "Appendix B."

(6) Notify the Regional Director for the Fourteenth Region in writing, within 10 days from the date of this Order, what steps the Respondent Company has taken to comply herewith.

II. The Respondent Union, Local 600, Highway & City Freight Drivers, Dockmen & Helpers, affiliated with International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, St. Louis, Missouri, its officers, representatives, agents, successors, and assigns, shall:

A. Cease and desist from:

(1) Causing or attempting to cause the Respondent Company, its officers, agents, successors, or assigns, or any other employer, to discriminate against its employees in violation of Section 8(a)(3).

(2) Restraining or coercing the employees of the Respondent Company, or any other employer, by threatening to enforce any provision of its constitution or bylaws in such a way as to condition employment upon the payment of sums equivalent to assessments or fines for nonpayment of periodic dues, or to condition employment upon payment of a reinstatement fee predicated upon a prehire arrearage in violation of Section 8(b)(1)(A) of the Act.

(3) In any like or related manner restraining or coercing employees in the exercise of the rights guaranteed in Section 7 of the Act, including the right to refrain from engaging in any or all the activities guaranteed thereunder, except to the extent that such rights may be affected by an agreement requiring membership in a labor organization as a condition of employment as authorized by Section 8(a)(3) of the Act.

B. Take the following affirmative action which the Board finds will effectuate the policies of the Act:

[8] In the event that this Order is enforced by a decree of a United States Court of Appeals, there shall be substituted for the words "Pursuant to a Decision and Order" the words "Pursuant to a Decree of the United States Court of Appeals, Enforcing an Order."

(1) Notify the Respondent Company and Paul H. Conrad, in writing, that it withdraws all objections to the employment of Conrad and that it requests the Respondent Company to offer Conrad immediate and full reinstatement to his former or substantially equivalent position.

(2) Jointly and severally with the Respondent Company, make Paul H. Conrad whole for any loss of pay he may have suffered by reason of their discrimination against him in the manner set forth in the section of the Intermediate Report entitled "The Remedy."

(3) Post at its offices and meeting halls in St. Louis, Missouri, copies of the notice attached hereto marked "Appendix B."[9] Copies of said notice, to be furnished by the Regional Director for the Fourteenth Region, shall, after being duly signed by the Respondent Union's representative, be posted by it immediately upon receipt thereof, and be maintained by it for 60 consecutive days thereafter in conspicuous places, including all places where notices to members are customarily posted. Reasonable steps shall be taken by it to insure that said notices are not altered, defaced, or covered by any other material.

(4) Promptly mail to the Regional Director for the Fourteenth Region signed copies of Appendix B for posting by the Respondent Company at its St. Louis, Missouri, facilities.

(5) Notify the Regional Director for the Fourteenth Region in writing, within 10 days from the date of this Order, what steps the Respondent Union has taken to comply herewith.

[9] In the event that this Order is enforced by a decree of a United States Court of Appeals, there shall be substituted for the words "Pursuant to a Decision and Order" the words "Pursuant to a Decree of the United States Court of Appeals, Enforcing an Order."

APPENDIX A

NOTICE TO ALL EMPLOYEES

Pursuant to a Decision and Order of the National Labor Relations Board, and in order to effectuate the policies of the Labor Management Relations Act, we hereby notify you that:

WE WILL NOT encourage membership in Local 600, Highway & City Freight Drivers, Dockmen & Helpers, affiliated with International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, or any other labor organization of our employees, by discriminating against our employees in any manner in regard to their hire or tenure of employment, or any term or condition of employment, except to the extent permitted under Section 8(a)(3) of the Act.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce our employees in the exercise of their rights

guaranteed them under Section 7 of the Labor Management Relations Act, including the right to refrain from any or all of the activities guaranteed thereunder, except to the extent that such rights may be affected by an agreement requiring membership in a labor organization as a condition of employment, as authorized in Section 8(a)(3) of the Act.

WE WILL offer Paul H. Conrad immediate and full reinstatement to his former or substantially equivalent position without prejudice to his seniority or other rights and privileges previously enjoyed, and make him whole for any loss of pay suffered as result of the discrimination against him.

All our employees are free to become, remain, or to refrain from becoming or remaining members of the above-named Union or any other labor organization, except to the extent that this right may be affected by an agreement in conformity with Section 8(a)(3) of the Act.

SPECTOR FREIGHT SYSTEM, INC.,
Employer.

Dated_____ By_____
(Representative) (Title)

This notice must remain posted for 60 days from the date hereof, and must not be altered, defaced, or covered by any other material.

APPENDIX B

NOTICE TO ALL MEMBERS OF LOCAL 600, HIGHWAY & CITY FREIGHT DRIVERS, DOCKMEN & HELPERS, AFFILIATED WITH INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS OF AMERICA

Pursuant to a Decision and Order of the National Labor Relations Board, and in order to effectuate the policies of the Labor Management Relations Act, we hereby notify you that:

WE WILL NOT cause or attempt to cause Spector Freight System, Inc., its officers, agents, successors, or assigns, or any other employer, to discriminate against employees in regard to their hire or tenure of employment, or any term or condition of employment, in violation of Section 8(a)(3) of the Labor Management Relations Act.

WE WILL NOT threaten to enforce any provision of the constitution or bylaws in such a way to condition employment upon the payment of sums equivalent to assessments or fines for nonpayment of periodic dues, or to condition employment upon the payment of a reinstatement fee arising out of a prehire arrearage in violation of Section 8(b)(1)(A) of the Act.

WE WILL NOT in any like or related manner restrain or coerce employees in the exercise of the rights guaranteed under Section 7 of the Act, including the right to refrain from engaging in any or all of the activities guaranteed thereunder, except to the extent that such rights may be affected by an agreement requiring membership in a labor organization as a condition of employment, as authorized in Section 8(a)(3) of the Act.

WE WILL notify Spector Freight System, Inc. in writing that we have no objection to the employment of Paul H. Conrad, and we will make him whole for any loss of pay suffered as a result of the discrimination against him.

LOCAL 600, HIGHWAY & CITY FREIGHT DRIVERS, DOCKMEN & HELPERS, AFFILIATED WITH INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS OF AMERICA,

Labor Organization.

Dated_____ By_____
(Representative) (Title)

This notice must remain posted for 60 days from the date hereof, and must not be altered, defaced, or covered by any other material.

INTERMEDIATE REPORT AND RECOMMENDED ORDER

STATEMENT OF THE CASE

Upon charges filed by Paul H. Conrad, an individual, herein called the Charging Party, the General Counsel, by the Regional Director for the Fourteenth Region (St. Louis, Missouri), of the National Labor Relations Board, herein called the Board, issued his complaint dated June 23, 1958, against the Respondents, Spector Freight System, Inc., herein called the Company, and Local 600, Highway & City Freight Drivers, Dockmen & Helpers, affiliated with International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, herein called the Union, alleging that the Respondents respectively violated Section 8(a)(1) and (3), Section 8(b)(1)(A) and (2), and Section 2(6) and (7) of the Act. Copies of the charge, an order consolidating the cases, the complaints, and a notice of hearing were duly served upon the Respondents and the Charging Party. The Respondents' respective answers deny the commission of unfair labor practices.

Pursuant to notice, a hearing was held before the Trial Examiner on July 15 and October 22, 1958, at St. Louis. Full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing upon the issues was afforded the parties. The parties waived oral argument. Only the General Counsel filed a brief with the Trial Examiner.

Upon the entire record in the case and from his observation of the witnesses, the Trial Examiner makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

The Company, a Missouri corporation, is engaged in the transportation of general commodities. It maintains its principal office in Chicago, Illinois, and operates freight terminals in a number of other States, including one at St. Louis, Missouri, the facility involved in this proceeding. During the calendar year 1957, the Company performed services outside the State of Illinois valued in excess of $50,000, and

transported goods valued in excess of $1,000,000 in several States of the United States. It is found that the Company is engaged in commerce within the meaning of the Act.

II. THE LABOR ORGANIZATION INVOLVED

Local 600, Highway & City Freight Drivers, Dockmen & Helpers, affiliated with International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, is a labor organization within the meaning of the Act.

III. THE UNFAIR LABOR PRACTICES

A. *The events*

The Charging Party, Paul H. Conrad, has been a driver and member of the Union a number of years and was hired by the Company as an over-the-road driver on November 6, 1957, after he was unemployed during October. The Company and the Union are under a contract which contains union-security and checkoff provisions. The Company discharged Conrad on February 3, 1958, at the Union's request when the Union informed the Company that Conrad had failed to pay dues for October, November, and December, 1957, and had failed to comply with the union-security provision of the contract.

When Conrad was hired by the Company he executed a checkoff authorization card submitted to him by Supervisor John J. Lloyd. This checkoff card authorizes the Company to deduct $5 from Conrad's pay as dues and remit that amount to the Union on a monthly basis.[1]

Conrad did not pay dues directly to the Union in November or December and no dues were deducted from Conrad's pay and remitted to the Union for those 2 months. According to Lloyd, he informed Conrad when Conrad was hired that Conrad would have to pay November and December dues directly to the Union, and that beginning in January, the Company would deduct dues on a quarterly basis in advance and remit the dues to the Union. Conrad denied that he was so informed by Lloyd. In the Trial Examiner's view, this issue need not be resolved.

On January 1, 1958, Conrad asked Acel Wilson, head line dispatcher for the Company, why dues deduction had not been made from his paycheck and Wilson replied that the deductions would probably be made from the following week's check.

According to Patrick M. Neary, secretary-treasurer of the Union, on December 31, in accordance with the Union's constitution and bylaws, an entry was made on Conrad's account card that Conrad had been suspended as he had not paid dues for 3 months, the last dues entry having been made in September. By draft and covering letter of January 2, the Company in accordance with a practice of several years' standing of making quarterly dues deductions in advance, remitted to the Union for Conrad, among other employees, $15 as dues with the designation that it was for the months of January, February, and March. On January 6, the Union made three entries on Conrad's account card each entry showing dues payment of $5. The entries did not allocate these payments to any particular month as did the prior entries on the account card. The Union acknowledged to the Company receipt of the funds and noted on that document that Conrad had been suspended.

On January 8, after Lloyd had received a telephone call from the Union regarding Conrad, Lloyd informed Conrad that an officer of the Union wanted to see him, and that Conrad could not go out on a trip until he had contacted and cleared with the Union. Later that day Conrad met with Neary at the Union's office.

There is a conflict as to precisely what occurred between Conrad and Neary in their differences as to what Conrad owed the Union as expressed at the January 8 meeting and also at a postdischarge meeting on February 4. It is sufficient to find that at the January 8 meeting Neary took the position that in accordance with the bylaws he sought dues from Conrad at the rate of $6 a month instead of $5 a month because payment was being made after the first of the month for either 2 months (November and December) or for 3 months (October, November, and December). Further, Neary insisted that Conrad also owed a reinstatement fee of $60 because of his failure to pay dues for October, November, and December. Nearly explained that the least the Union would accept was $72, a $60 reinstatement fee, and dues for November and December at the rate of $6 for each month. Conrad took the posi-

[1] The text of the card reads as follows :

I, the undersigned employee of this Company, do hereby irrevocably authorize my employer to deduct the sum of five dollars from my pay for dues to be remitted to the Secretary-Treasurer of the Teamsters Local No. 600 in ample time to reach their office on or before the first of the month.

tion that he was not obligated to pay the reinstatement fee and that he was not liable for October dues as he was then unemployed. At the close of the January 8 meeting, at Conrad's request, Neary called Lloyd and told Lloyd to continue to employ Conrad, that there was some discrepancy, and that he was certain that they would get it straightened out.

Conrad returned to work and made no payment to the Union on or after January 8.

By letter to the Company dated January 30, the Union sought Conrad's discharge for failure to comply with the union-security provision of the contract. The Union's president also informed the labor relations director of the Company that Conrad's discharge was requested because of Conrad's failure to pay dues for October, November, and December, 1957. On February 3, Lloyd informed Conrad that he was discharged. Within the next few days at Conrad's request the Union refunded $15, the amount which the Company had deducted from Conrad's pay and had remitted to the Union.

B. *The conclusions*

As already found, the Union informed the Company that it requested Conrad's discharge under the union-security provision of the contract for dues delinquency arising out of his failure to pay dues for October, November, and December, 1957, and the Company fulfilled the Union's request. Conrad not having been hired until November, it is found, as the discharge to the Company's knowledge was based upon Conrad's failure to pay dues for October, a prehire period, that by the discharge of Conrad on February 3, 1958, the Company and the Union violated Section 8(a)(3) and 8(a)(1) and Section 8(b)(2) and 8(b)(1)(A) of the Act, respectively.[2]

As also found, as Conrad failed to pay dues for October, November, and December, the Union viewed Conrad as a suspended member and insisted upon his payment of a reinstatement fee of $60. The demand to Conrad for a reinstatement fee having arisen out of a prehire arrearage, namely failure to pay dues for October, and the Union having thereby threatened Conrad with loss of good standing and loss of employment with the Company, it is found that the Union engaged in restraint and coercion in violation of Section 8(b)(1)(A) of the Act.[3]

It is further found, for the reasons stated by the Board in *Bakery and Confectionery Workers' International Union, Local 12, etc.* (*National Biscuit Company*),[4] that by insisting to Conrad that he pay dues at the rate of $6 a month instead of $5 a month because payment was being made after the first of the month, thereby threatening Conrad with loss of good standing and loss of employment with the Company, the Union engaged in restraint and coercion in violation of Section 8(b)(1)(A) of the Act.

IV. THE EFFECT OF THE UNFAIR LABOR PRACTICES UPON COMMERCE

The activities of the Respondents, set forth in section III, above, occurring in connection with the operations of the Company described in section I, above, have a close, intimate, and substantial relation to trade, traffic, and commerce among the several States, and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

V. THE REMEDY

It having been found that the Respondents have engaged in unfair labor practices, it will be recommended that they cease and desist therefrom and take certain affirmative action designed to effectuate the policies of the Act.

It having been found as set forth in the section entitled "The Conclusions," that the Company and the Union violated Section 8(a)(3) and (1), and Section 8(b)(2) and (1)(A) of the Act, respectively, by discharging Paul H. Conrad on February 3, 1958, it will be recommended, among other things, that the Company offer Conrad immediate and full reinstatement to his former or substantially equivalent position without prejudice to his seniority or other rights and privileges in accordance with the *Chase National Bank* case (65 NLRB 827), and that the Company and the Union jointly and severally make Conrad whole for any loss of pay he may have suffered from the date of his unlawful discharge to the date of the Company's offer of reinstatement. Such losses of pay shall be computed in accordance with the Board's *Woolworth* formula (90 NLRB 289).

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[2] *Murphy's Motor Freight, Inc.*, 113 NLRB 524, enfd. 231 F. 2d 654 (C.A. 3).

[3] *Local 140, Bedding, Curtain & Drapery Workers, etc.* (*The Englander Company, Inc.*), 109 NLRB 326, and *Murphy's Motor Freight, supra.*

[4] 115 NLRB 1542.

It having been further found that the Union violated Section 8(b)(2) and (1)(A) of the Act by threatening to enforce provisions of its constitution or bylaws in such a way as to condition employment on the payment of sums equivalent to assessments or fines for nonpayment of periodic dues, and to condition employment on the payment of a reinstatement fee predicated upon a prehire arrearage, it will be recommended, among other things, that the Union cease and desist from engaging in this conduct.

Upon the basis of the foregoing findings of fact and upon the entire record in the case, the Trial Examiner makes the following:

CONCLUSIONS OF LAW

1. Local 600, Highway & City Freight Drivers, Dockmen & Helpers, affiliated with International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, is a labor organization within the meaning of the Act.
2. The Union has engaged in and is engaging in unfair labor practices within the meaning of Section 8(b)(1)(A) and (2) of the Act.
3. The Company has engaged in and is engaging in unfair labor practices within the meaning of Section 8(a)(1) and (a)(3) of the Act.
4. The aforesaid unfair labor practices affect commerce within the meaning of Section 2(6) and (7) of the Act.

[Recommendations omitted from publication.]

Illinois Farm Supply Company *and* Francis J. Evanchik, Petitioner. *Case No. 13–RD–370. March 5, 1959*

DECISION AND DIRECTION OF ELECTION

Upon a decertification petition duly filed under Section 9(c) of the National Labor Relations Act, a hearing was held before Richard B. Simon, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its powers in connection with this case to a three-member panel [Chairman Leedom and Members Bean and Fanning].

Upon the entire record in this case, the Board finds:

1. The Employer is engaged in commerce within the meaning of the Act.

2. The Petitioner, an employee of the Employer, asserts that the International Association of Machinists, AFL–CIO, and the American Federation of Grain Millers, AFL–CIO, which were certified by the Board on November 19, 1957, as the joint representative of the Employer's employees, are no longer such representative.[1]

3. A question affecting commerce exists concerning the representation of employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

American Federation of Grain Millers, AFL–CIO (hereinafter called Grain Millers), and International Association of Machinists, AFL–CIO (hereinafter called IAM), were jointly certified Novem-

[1] District 50, United Mine Workers of America, intervened at the hearing on the basis of a card showing.